

STATE OF COLORADO

EXECUTIVE CHAMBERS

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Bill Owens
Governor

April 26, 2004

The Honorable Colorado House of Representatives

Sixty-Fourth General Assembly
Second Regular Session
State Capitol Building
Denver, CO 80203

Ladies and Gentlemen:

I am filing with the Secretary of State the following act:

HOUSE BILL 04-1422, CONCERNING THE PROVISION FOR PAYMENT OF THE EXPENSES OF THE EXECUTIVE, LEGISLATIVE, AND JUDICIAL DEPARTMENTS OF THE STATE OF COLORADO, AND OF ITS AGENCIES AND INSTITUTIONS, FOR AND DURING THE FISCAL YEAR BEGINNING JULY 1, 2004, EXCEPT AS OTHERWISE NOTED.

Approved in part and disapproved in part on April 26, 2004, at 2:34 PM.

It is my constitutional obligation to review the general appropriations bill and exercise the line item veto when necessary. While I have approved House Bill 04-1422 (the "FY 2004-05 Long Bill") as a whole, I have vetoed headnotes and footnotes within the bill. Pursuant to the Colorado Constitution, I have filed copies of the vetoed items from this bill, with my objections, with the Secretary of State.

Meanwhile, I am concerned that the budget contained in this bill is not balanced because it relies on legislative changes that have not yet been through the entire legislative process. In particular, it relies on \$56.0 million from House Bills 04-1397 and 04-1421, neither of which has been passed. Nonetheless, the paramount task of the General Assembly is to pass a state budget. Therefore, I am signing House Bill 04-1422, with noted line item vetoes, as a starting point to negotiate a balanced budget with the General Assembly in the remaining nine days of the session.

The following text explains my vetoes to the Long Bill.

VETO AND COMMENT ON HEADNOTES AND FOOTNOTES

Article IV, Section 12 of the Colorado Constitution allows me to exercise line item vetoes on any bill making appropriations of money, including the general appropriations bill (the “Long Bill”). I have full discretion with regard to the items I choose to veto. I have exercised this power to veto certain portions of the FY 2004-2005 Long Bill that do not meet with my approval.

I vetoed a number of headnotes and footnotes that violate Article III and/or Article V of the Constitution. Article III provides separation of powers between the executive and legislative branches. While the legislative branch has the authority to appropriate state funds, the executive branch has the inherent responsibility and authority to administer state funds. Therefore, the legislature may not attach conditions in the Long Bill that intrude into the administration of state government. Anderson v. Lamm, 579 P.2d 620 (Colo. 1978); Colorado General Assembly v. Lamm, 704 P.2d 1371 (Colo. 1985). I have vetoed provisions that go beyond appropriating funds and infringe on the executive authority.

In addition, Article V, Section 32 prohibits the legislature from including substantive legislation in the Long Bill. Anderson v. Lamm; Colorado General Assembly v. Lamm. The executive department cannot abide by legislative directives that are in violation of the Colorado Constitution. Accordingly, I have vetoed provisions of substantive legislation in the Long Bill.

Custodial federal funds are not subject to appropriation, rather, they are allocated at the discretion of the executive branch within the constraints established by the federal government. Any reference in the Long Bill to custodial federal funds shall be considered for informational purposes only, and shall not restrict the ability of the executive branch to allocate such funds.

I have lined through the following items, thereby vetoing these provisions:

SECTION 1: HEADNOTES

- Section 1. Definitions – general provisions, headnote (1), pages 1-2:** (1) (a) “Capital outlay” means: (I) Equipment, furniture, motor vehicles, software, and other items that have a useful life of one year or more and that cost less than fifty thousand dollars; (II) Alterations and replacements, meaning major and extensive repair, remodeling, or alteration of buildings, the replacement thereof, or the replacement and renewal of the plumbing, wiring, electrical, fiber optic, heating, and air conditioning systems therein, costing less than fifteen thousand dollars; (III) New structures, meaning the construction of entirely new buildings where the cost will be less than fifteen thousand dollars, including the value of materials and labor, either state-supplied or supplied by contract; (IV) Nonstructural improvements to land, meaning the grading, leveling, drainage, irrigation, and landscaping thereof and the construction of roadways, fences, ditches, and sanitary and storm sewers, where the cost will be less than five thousand dollars. (b) “Capital outlay” does not include those things defined as capital construction by section 24-75-301, Colorado Revised Statutes.

I vetoed this headnote last year. This headnote interferes with the ability of the executive branch to administer appropriations as provided by Article III of the Colorado Constitution. It is important to preserve the executive authority to

administer appropriations in order to allow effective management of the state's business and of the current fiscal situation. In order to provide flexibility for departments to administer the appropriations when providing services to citizens, I am vetoing this headnote. Furthermore, this provision represents substantive legislation and as such is in violation of Article V, Section 32 of the Colorado Constitution. In addition, the dollar amounts listed in this headnote have not been changed since 1977. I will direct the departments to comply with the headnote to the extent feasible, however, to the extent that this headnote hinders the ability of departments to meet the needs of citizens, they will be allowed to spend outside of these definition parameters, provided that such spending will remain within the line item appropriation provided by the General Assembly. Because this headnote violates one or more articles of the state constitution, it is constitutionally void.

2. **Section 1. Definitions – general provisions, headnote (3), pages 2-3:** (3) (a) (I) Except as otherwise provided in paragraph (b) of this subsection, “full time equivalent” or “FTE” means the budgetary equivalent of one permanent position continuously filled full time for an entire fiscal year by elected state officials or by state employees who are paid for at least two thousand eighty hours per fiscal year, with adjustments made to: (A) Include in such time computation any sick, annual, administrative, or other paid leave; and (B) Exclude from such time computation any overtime or shift differential payments made in excess of regular or normal hours worked and any leave payouts upon termination of employment. (II) “Full time equivalent” or “FTE” does not include contractual, temporary, or permanent seasonal positions. (III) As used in this paragraph (a), “state employee” means a person employed by the state, whether or not such person is a classified employee in the state personnel system. (b) For purposes of higher education professional personnel and assistants in resident instruction and professional personnel in organized research and activities relating to instruction, “full time equivalent” or “FTE” means the equivalent of one permanent position continuously filled for a nine-month or ten-month academic year. (c) The maximum limitation on the number of FTE that are allowed for the fiscal year to which this act pertains may comprise any combination of part-time positions or full-time positions so long as the maximum FTE limitation is not exceeded.

I vetoed this headnote last year. The Colorado Supreme Court concluded in 1978 that legislative attempts to administer the appropriation by placing “specific staffing and resource allocation decisions” in a general appropriations bill were unconstitutional. Anderson v. Lamm, 195 Colo. 437, 579 P.2d 620 (1978). The Supreme Court in so doing recognized that the ability to make staffing decisions is one of the most fundamental components of managing state government. Therefore, this headnote and its references are constitutionally void. Such a headnote inhibits the executive branch's authority to administer the appropriation and is thus unconstitutional. Furthermore, this provision represents substantive legislation and as such is in violation of Article V, Section 32 of the Colorado Constitution.

3. **Section 1. Definitions – general provisions, headnote (4), pages 3-4:** (4) “Health, life, and dental” means the state contribution for group benefits plans pursuant to section 24-50-609, Colorado Revised Statutes. Pursuant to section 24-50-609 (2) (b) (II), Colorado Revised Statutes, the state of Colorado shall contribute an amount necessary to pay one hundred seventy-three dollars and ninety-two cents per month per single employee, two hundred fifty

dollars and thirty-nine cents per month per employee with one covered dependent, and three hundred forty-four dollars and thirty-three cents per employee with two or more covered dependents for each employee enrolled in a group benefit plan that includes enrollment in medical benefits. In accordance with section 24-50-104 (4) (d) (II), Colorado Revised Statutes, these contribution amounts shall be effective until December 1, 2004. In accordance with section 24-50-104 (4) (d) (II) and section 24-50-609 (2) (b), Colorado Revised Statutes, commencing on January 1, 2005 the state of Colorado shall contribute an amount necessary to pay one hundred ninety-nine dollars per month per single employee, three hundred twenty-four dollars and forty-four cents per month per employee with one covered dependent, and four hundred forty dollars and ninety-seven cents per employee with two or more covered dependents for each employee enrolled in a group benefit plan that includes enrollment in medical benefits. Funds appropriated for health, life, and dental shall not be expended for any other purpose.

I vetoed this headnote last year. This headnote interferes with the ability of the executive branch to administer appropriations as provided by Article III of the Colorado Constitution. It is important to preserve the executive authority to administer appropriations in order to allow effective management of the state's business. In order to provide flexibility for departments to administer the appropriations when providing services to citizens, I am vetoing this headnote. I will direct the departments to comply with the headnote to the extent feasible, however, to the extent that this headnote hinders the ability of departments to meet the needs of citizens, they will be allowed to spend outside of these definition parameters, provided that such spending will remain within the line item appropriation provided by the General Assembly. Furthermore, this provision represents substantive legislation and as such is in violation of Article V, Section 32 of the Colorado Constitution. Because this headnote violates one or more articles of the state's constitution, the headnote and its references are constitutionally void.

4. **Section 1. Definitions – general provisions, headnote (6), page 4:** (6) "Lease purchase" means the use and acquisition of equipment under an agreement to purchase, pursuant to which payments are made for a period of longer than one year and are subject to annual appropriation. "Lease purchase" may also include payments made under the agreement for the maintenance of the equipment. No funds shall be expended for lease purchases except those specifically appropriated for such purpose. The provisions of this subsection (6) shall not apply to the board of regents of the university of Colorado; the state board of agriculture; the board of trustees of the Colorado school of mines; the board of trustees of the university of northern Colorado; the trustees of the state colleges in Colorado; the state board for community colleges and occupational education (except for administration and the division of occupational education); the board for the Auraria higher education center; the state historical society; the Colorado council on the arts; the division of wildlife; the water conservation board; the county departments of social services; and the low-income energy assistance block grant.

I vetoed this headnote last year. This headnote unconstitutionally interferes with the ability of the executive branch to administer appropriations as provided by Article III of the Colorado Constitution. It is important to preserve the executive authority to administer appropriations in order to allow effective management of the states business. In order to provide flexibility for departments to administer the

appropriations when providing services to citizens, I am vetoing this headnote. I will direct the departments to comply with the headnote to the extent feasible, however, to the extent that this headnote hinders the ability of departments to meet the needs of citizens, they will be allowed to spend outside of these definition parameters, provided that such spending will remain within the line item appropriation provided by the General Assembly. Furthermore, this provision represents substantive legislation and as such is in violation of Article V, Section 32 of the Colorado Constitution. Because this headnote violates one or more articles of the state's constitution, the headnote and its references are constitutionally void.

5. **Section 1. Definitions – general provisions, headnote (7), pages 4-5:** (7) “Leased space” means the use and acquisition of office facilities and office and parking space pursuant to a rental agreement. No funds shall be expended for leased space except pursuant to a specific appropriation for such purpose. The provisions of this subsection (7) shall not apply to the board of regents of the university of Colorado; the state board of agriculture; the board of trustees of the Colorado school of mines; the board of trustees of the university of northern Colorado; the trustees of the state colleges in Colorado; the state board for community colleges and occupational education (except for administration and the division of occupational education); the board for the Auraria higher education center; the state historical society; the Colorado council on the arts; the division of wildlife; the water conservation board; the county departments of social services; and the low-income energy assistance block grant.

I vetoed this headnote last year. This headnote interferes with the ability of the executive branch to administer appropriations as provided by Article III of the Colorado Constitution. It is important to preserve the executive authority to administer appropriations in order to allow effective management of the state's business. In order to provide flexibility for departments to administer the appropriations when providing services to citizens, I am vetoing this headnote. I will direct the departments to comply with the headnote to the extent feasible, however, to the extent that this headnote hinders the ability of departments to meet the needs of citizens, they will be allowed to spend outside of these definition parameters, provided that such spending will remain within the line item appropriation provided by the General Assembly. Furthermore, this provision represents substantive legislation and as such is in violation of Article V, Section 32 of the Colorado Constitution. Because this headnote violates one or more articles of the state's constitution, the headnote and its references are constitutionally void.

6. **Section 1. Definitions, headnote (8), page 5:** (8) “Legal services” means the purchase of legal services from the department of law; however, up to ten percent of the amount appropriated for legal services may instead be expended for operating expenses, contractual services, and tuition for employee training. No funds shall be expended for legal services except those specifically appropriated for such purpose. The provision of this subsection (8) shall not apply to the departments of education, higher education, transportation, and the risk management fund in the department of personnel.

I vetoed this headnote last year. This headnote interferes with the ability of the executive branch to administer appropriations as provided by Article III of the Colorado Constitution. Legal services expenditures are not discretionary in

protecting the interest of the state and its citizens. Limiting the departments' ability to expend funds for these services would result in ineffective administration of the government. However, I recognize the need to contain state expenditures for legal services. I will instruct the departments to use all necessary restraint in legal service expenditures and to provide an accurate annual accounting of all legal expenditures to the Joint Budget Committee. Furthermore, this provision represents substantive legislation and as such is in violation of Article V, Section 32 of the Colorado Constitution. Because this headnote violates one or more articles of the state's constitution, the headnote and its references are constitutionally void.

7. **Section 1. Definitions – general provisions, headnote (10), page 5:** (10) “Operating expenses” means: (a) Supplies and materials, meaning items that by their nature are consumable and that have a useful life of less than one year or that, after usage, undergo an impairment of, or a material change in, physical condition, including, but not limited to, books, periodicals, and educational, laboratory, medical, data processing, custodial, postal, office, photographic, and road maintenance supplies and materials; (b) Current charges, meaning charges for items or services not otherwise defined in this section for which a separate appropriation is not made, including, but not limited to, charges for utilities, trash removal, custodial services, telecommunications, data processing, advertising, freight, rentals of equipment and property, storage, parking, minor repair or maintenance, and printing and reproduction, and insurance premiums, dues, subscriptions, casualty losses, commissions, royalties, interest, fees, fines, reimbursements, and payments of prizes, awards, and judgments other than to state employees as compensation; except that no funds appropriated for operating expenses may be expended for vehicle lease payments, leased space, or lease purchase unless otherwise authorized by law; (c) Capital outlay, as defined in subsection (1) of this section. (d) The cost of travel by common carrier or by state-owned or privately owned conveyance and the costs of meals and lodging incident to such travel.

I vetoed this headnote last year. This headnote interferes with the ability of the executive branch to administer appropriations as provided by Article III of the Colorado Constitution. It is important to preserve the executive authority to administer appropriations in order to allow effective management of the state's business. In order to provide flexibility for departments to administer the appropriations when providing services to citizens, I am vetoing this headnote. I will direct the departments to comply with the headnote to the extent feasible, however, to the extent that this headnote hinders the ability of departments to meet the needs of citizens, they will be allowed to spend outside of these definition parameters, provided that such spending will remain within the line item appropriation provided by the General Assembly. Furthermore, this provision represents substantive legislation and as such is violation of Article V, Section 32 of the Colorado Constitution. Because this headnote violates one or more articles of the state's constitution, the headnote and its references are constitutionally void.

8. **Section 1. Definitions – general provisions, headnote (11), page 6:** (11) “Personal services” means: (a) All salaries and wages, whether to full-time, part-time, or temporary employees of the state, and also includes the state's contribution to the public employees' retirement fund and the state's share of federal Medicare tax paid for state employees. Payments for overtime shall be in compliance with rules and procedures adopted by the state personnel director. (b)

Professional services, meaning services requiring advanced study in a specialized discipline that are rendered or performed by firms or individuals for the state other than for employment compensation as an employee of the state, including but not limited to accounting, consulting, architectural, engineering, physician, nurse, specialized computer, and construction management services. Payments for professional services shall be in compliance with section 24-30-202 (2) and (3), Colorado Revised Statutes. (c) Temporary services, meaning clerical, administrative, and casual labor rendered or performed by firms or individuals for the state other than for employment compensation as an employee of the state. Payments for temporary services shall be in compliance with section 24-30-202 (2) and (3), Colorado Revised Statutes. (d) Tuition, meaning payments for graduate or undergraduate courses taken by state employees at institutions of higher education. (e) Payments for unemployment insurance as required by the department of labor and employment.

I vetoed this headnote last year. This headnote interferes with the ability of the executive branch to administer appropriations as provided by Article III of the Colorado Constitution. It is important to preserve the executive authority to administer appropriations in order to allow effective management of the state's business. In order to provide flexibility for departments to administer the appropriations when providing services to citizens, I am vetoing this headnote. I will direct the departments to comply with the headnote to the extent feasible, however, to the extent that this headnote hinders the ability of departments to meet the needs of citizens, they will be allowed to spend outside of these definition parameters, provided that such spending will remain within the line item appropriation provided by the General Assembly. Furthermore, this provision represents substantive legislation and as such is in violation of Article V, Section 32 of the Colorado Constitution. Because this headnote violates one or more articles of the state's constitution, the headnote and its references are constitutionally void.

9. **Section 1. Definitions – general provisions, headnote (12), page 6:** (12) “Purchase of services from computer center” means the purchase of automated data processing services from the general government computer center.

I vetoed this headnote last year. This headnote interferes with the ability of the executive branch to administer appropriations as provided by Article III of the Colorado Constitution. It is important to preserve the executive authority to administer appropriations in order to allow effective management of the state's business. In order to provide flexibility for departments to administer the appropriations when providing services to citizens, I am vetoing this headnote. I will direct the departments to comply with the headnote to the extent feasible, however, to the extent that this headnote hinders the ability of departments to meet the needs of citizens, they will be allowed to spend outside of these definition parameters, provided that such spending will remain within the line item appropriation provided by the General Assembly. Furthermore, this provision represents substantive legislation and as such is in violation of Article V, Section 32 of the Colorado Constitution. Because this headnote violates one or more articles of the state's constitution, the headnote and its references are constitutionally void.

10. **Section 1. Definitions – general provisions, headnote (13), page 6:** (13) “Short-term disability” means the state contribution for employee short-term disability pursuant to section 24-50-603, Colorado Revised Statutes. No funds appropriated for short-term disability shall be expended for any other purpose.

I vetoed this headnote last year. This headnote interferes with the ability of the executive branch to administer appropriations as provided by Article III of the Colorado Constitution. It is important to preserve the executive authority to administer appropriations in order to allow effective management of the state’s business. In order to provide flexibility for departments to administer the appropriations when providing services to citizens, I am vetoing this headnote. I will direct the departments to comply with the headnote to the extent feasible, however, to the extent that this headnote hinders the ability of departments to meet the needs of citizens, they will be allowed to spend outside of these definition parameters, provided that such spending will remain within the line item appropriation provided by the General Assembly. Furthermore, this provision represent substantive legislation and as such is in violation of Article V, Section 32 of the Colorado Constitution. Because this headnote violates one or more articles of the state’s constitution, the headnote and its references are constitutionally void.

11. **Section 1. Definitions – general provisions, headnote (14), pages 6-7:** (14) “Utilities” means water, sewer service, electricity, payments to energy service companies, purchase of energy conservation equipment, and all heating fuels.

I vetoed this headnote last year. This headnote interferes with the ability of the executive branch to administer appropriations as provided by Article III of the Colorado Constitution. It is important to preserve the executive authority to administer appropriations in order to allow effective management of the business of the state. In order to provide flexibility for departments to administer the appropriations when providing services to citizens, I am vetoing this headnote. I will direct the departments to comply with the headnote to the extent feasible, however, to the extent that this headnote hinders the ability of departments to meet the needs of citizens, they will be allowed to spend outside of these definition parameters, provided that such spending will remain within the line item appropriation provided by the General Assembly. Furthermore, this provision represents substantive legislation and as such is in violation of Article V, Section 32 of the Colorado Constitution. Because this headnote violates one or more articles of the state’s constitution, the headnote and its references are constitutionally void.

12. **Section 1. Definitions – general provisions, headnote (15), page 7:** (15) “Vehicle lease payments” means the annual payments to the department of personnel for the cost of administration, repayment of a loan from the state treasury, and lease-purchase payments for new and replacement vehicles. No funds shall be expended for vehicle lease payments except those specifically appropriated for such purposes. The provisions of this subsection (15) shall not apply to the departments of education, higher education, and transportation.

I vetoed this headnote last year. This headnote interferes with the ability of the executive branch to administer appropriations as provided by Article III of the

Colorado Constitution. It is important to preserve the executive authority to administer appropriations in order to allow effective management of the state's business. In order to provide flexibility for departments to administer the appropriations when providing services to citizens, I am vetoing this headnote. I will direct the departments to comply with the headnote to the extent feasible, however, to the extent that this headnote hinders the ability of departments to meet the needs of citizens, they will be allowed to spend outside of these definition parameters, provided that such spending will remain within the line item appropriation provided by the General Assembly. Furthermore, this provision represents substantive legislation and as such is in violation of Article V, Section 32 of the Colorado Constitution. Because this headnote violates one or more articles of the state's constitution, the headnote and its references are constitutionally void.

13. **Section 1. Definitions – general provisions, headnote (16), page 7:** (16) “Multiuse Network Payments” means payments to the Department of Personnel and Administration for the cost of administration and the use of the state's telecommunications network. No funds appropriated for multiuse network payments shall be expended for any other purpose.

I vetoed this headnote last year. This headnote interferes with the ability of the executive branch to administer appropriations as provided by Article III of the Colorado Constitution. It is important to preserve the executive authority to administer appropriations in order to allow effective management of the state's business. In order to provide flexibility for departments to administer the appropriations when providing services to citizens, I am vetoing this headnote. I will direct the departments to comply with the headnote to the extent feasible, however, to the extent that this headnote hinders the ability of departments to meet the needs of citizens, they will be allowed to spend outside of these definition parameters, provided that such spending will remain within the line item appropriation provided by the General Assembly. Furthermore, this provision represents substantive legislation and as such is in violation of Article V, Section 32 of the Colorado Constitution. Because this headnote violates one or more articles of the state's constitution, the headnote and its references are constitutionally void.

14. **Section 1. Definitions, headnote (19), page 7:** (19) Where no purpose is specified or where a special program is specified, the appropriation shall be for contractual services, tuition, and operating expenses and, only if the appropriation includes a specified FTE limitation, for personal services other than contractual services.

I vetoed this last year. This headnote interferes with the ability of the executive branch to administer appropriations as provided by Article III of the Colorado Constitution. It is important to preserve the executive authority to administer appropriations in order to allow effective management of the state's business. In order to provide flexibility for departments to administer the appropriations when providing services to citizens, I am vetoing this headnote. I will direct the departments to comply with the headnote to the extent feasible, however, to the extent that this headnote hinders the ability of departments to meet the needs of citizens, they will be allowed to spend outside of these definition parameters, provided that such spending will remain within the line item appropriation provided

by the General Assembly. Furthermore, this provision represents substantive legislation and as such is in violation of Article V, Section 32 of the Colorado Constitution. Because this headnote violates one or more articles of the state's constitution, the headnote and its references are constitutionally void.

- 15. Section 1. Definitions, headnote (21), pages 7-8:** (21) When it is not feasible, due to the format of this act, to set forth fully in the line item description the purpose of an item of appropriation or a condition or limitation on the item of appropriation, the footnotes at the end of each section of this act refer to provisions which set forth such purposes, conditions, or limitations, and such provisions are therefore intended to be binding portions of the items of appropriation to which they relate. In other cases, where clearly expressed, footnotes refer to statements which are not intended by the general assembly to be binding portions of appropriations but which are related to the indicated item or items of appropriation. Such nonbinding statements include explanations of the assumptions used in making appropriations, the general assembly's intent with respect to future appropriations, and requests on the part of the general assembly for particular administrative action in connection with items of appropriation.

I vetoed this headnote last year. This headnote indicates that footnotes refer to provisions which set forth purpose, conditions, or limitations regarding the appropriation and states that provisions are therefore intended to be "binding portions" of the items of appropriations to which they relate. Any footnote that interferes with the ability of the executive branch to administer appropriations as provided by Article III of the Colorado Constitution is invalid. Any footnote that constitutes substantive legislation is in violation of Article V, Section 32 of the Colorado Constitution. I will consider such footnotes to be advisory, not binding.

SECTION 2: FOOTNOTES

- 1. Footnote 1, pages 18, 34, 43, 50-51, 66, 82, 109-110, 127, 135, 142, 144-145, 153, 158, 173, 188, 215, 230, 239, 254, 258, 261-262, 265-266:** All Departments, Totals -- Every department is requested to submit to the Joint Budget Committee information on the number of additional federal and cash funds exempt FTE associated with any federal grants or private donations that are applied for or received during FY 2004-05. The information should include the number of FTE, the associated costs (such as workers' compensation, health and life benefits, need for additional space, etc.) that are related to the additional FTE, the direct and indirect matching requirements associated with the federal grant or donated funds, the duration of the grant, and a brief description of the program and its goals and objectives.

This footnote violates the separation of powers in Article III of the Colorado Constitution in that it is attached to federal funds and private donations, which are not subject to legislative appropriation. Placing information requirements on such funds could constitute substantive legislation in the general appropriations bill in violation of Article V, Section 32 of the Colorado Constitution. In addition, this footnote is an unfunded mandate in that it would require a significant devotion of resources.

2. **Footnote 3, pages 34, 110, 127-128, 230-231, and 262:** Department of Corrections, Management, Executive Director's Office Subprogram; Department of Human Services, Mental Health and Alcohol and Drug Abuse Services, Alcohol and Drug Abuse Division and Division of Youth Corrections; Judicial Department, Probation and Related Services; Department of Public Safety, Division of Criminal Justice; and Department of Transportation, Office of Transportation Safety -- State agencies involved in multi- agency programs requiring separate appropriations to each agency are requested to designate one lead agency to be responsible for submitting a comprehensive annual budget request for such programs to the Joint Budget Committee, including prior year, request year, and three year forecasts for revenues into the fund and expenditures from the fund by agency. The requests should be sustainable for the length of the forecast based on anticipated revenues. Each agency is still requested to submit its portion of such request with its own budget document. This applies to requests for appropriation from the Drug Offender Surcharge Fund, the Sex Offender Surcharge Fund, the Persistent Drunk Driver Cash Fund, and the Alcohol and Drug Driving Safety Fund, among other programs.

I vetoed this footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution by dictating the format of the Executive budget submission. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill. I will instruct the departments to comply to the extent feasible.

3. **Footnote 4, page 34:** Department of Corrections, Management, External Capacity Subprogram, Payments to House State Prisoners, Payments to private prisons at a rate of \$50.37 per inmate per day – It is the intent of the General Assembly that the appropriations made for payments to private facilities housing state inmates be used exclusively for the purpose of per diem payments. It is the intent of the General Assembly that the department not withhold funds from the per diem payments to cover major medical expenses incurred by state inmates assigned to private facilities. It is the intent of the General Assembly that appropriations made in the medical services subprogram are sufficient to cover major medical expenses incurred by state inmates held in both state and private facilities.

I vetoed a similar footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill. It is my hope that the Department of Corrections will be able to fund all medical services for the department out of the line item appropriation for medical services for inmates. However, the State is required to provide these medical services and a request for additional funding may occur.

4. **Footnote 5, page 35:** Department of Corrections, Institutions, Utilities Subprogram, Utilities – The Department of Corrections is requested to continue the energy management program designed to reduce overall energy consumption in the department's facilities. Up to \$100,000 of the Department's utility appropriation may be for this program and a portion of these funds may be used to hire the equivalent of 1.0 FTE as an energy management program manager. The Department is requested to submit with its annual budget document a detailed accounting of any savings achieved as a result of the program and a summary of funds used to hire the 1.0 FTE.

I vetoed this footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. According to a 1978 court case, the General Assembly has no authority to appropriate or prescribe limits on FTE. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation. I will instruct the department and the controller to follow the legislative intent of the footnote to the extent feasible.

5. **Footnote 6a, page 35:** Department of Corrections, Inmates Programs, Community Reintegration Subprogram – The Department is requested to track recidivism rates for the inmates provided assistance through this program for five years after the release of an inmate. The Department is further requested to report, in their annual budget submission, a comparison of the recidivism rate of the inmates who are assisted through this program as compared to the overall recidivism rate for other inmates released from the Department.

I vetoed this footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution by dictating the format of the executive budget request. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation. I will direct the department to comply to the extent feasible.

6. **Footnote 7, page 35:** Department of Corrections, Inmate Programs, Community Reintegration Subprogram, Offender Re-employment Center – It is the intent of the General Assembly that no new General Fund dollars will be used for the Offender Re-employment Center and that the Department use funds received as gifts, grants, and donations for this center. Existing General Fund dollars may be used as a match for gifts, grants, and donations but shall not be used if they are to be considered a maintenance of effort. Of the amount appropriated in this line, up to \$94,000 may be used for the acquisition of leased space notwithstanding the provisions outlined in head note number 7 with regard to leased space.

I vetoed this footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Furthermore, this footnote attempts to appropriate gifts, grants, and donations that are not subject to legislative appropriation. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation.

7. **Footnote 8, page 44:** Department of Education, Assistance to Public Schools, Public School Finance -- The Department is requested to provide to the Joint Budget Committee, on or before November 1, 2004, information concerning the number of students that repeated a grade level in the 2003-04 school year, and the share of districts' total program costs associated with these students. The Department is requested to summarize the information by grade level, by school district, and by type of instructional program.

This footnote may violate the separation of powers in Article III of the Colorado Constitution by attempting to dictate the format of the executive budget request. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation. I will instruct the department to comply to the extent feasible.

8. **Footnote 9, page 44:** Department of Education, Assistance to Public Schools, Public School Finance; and School for the Deaf and the Blind, School Operations – The Department is requested to work with the Board of Trustees of the Colorado School for the Deaf and the Blind and report to the Joint Budget Committee and the Senate and House Education Committees by January 1, 2005, concerning the implementation of section 22-80-102 (4), C.R.S. The report is requested to include information concerning the status of any: (a) Intergovernmental agreements between the School and local school districts or other local governmental agencies; (b) partnerships with boards of cooperative services; and (c) charter schools chartered by the Board of Trustees. In addition, the report is requested to include information concerning the estimated state and local fiscal impact of any such agreements.

This footnote may violate Article V, Section 32 because it constitutes substantive legislation. I will instruct the department to comply to the extent feasible.

9. **Footnote 11, page 44:** Department of Education, Assistance to Public Schools, Public School Finance, State Share of Districts' Total Program Funding -- The Department is requested to provide to the Joint Budget Committee, on or before November 1, 2004, information concerning the Colorado preschool program. The information provided is requested to include the following for fiscal year 2003-04: (a) A list of participating districts; (b) the funded pupil count (FTE) allocated to each participating district and a description regarding how such allocation was determined; (c) data reflecting the ratio of each district's funded pupil count for the preschool program to its funded pupil count for kindergarten; (d) data indicating the number of three-year-old children that participated in each district's preschool program; (e) data indicating the number of children that participated in each district's preschool program for a full-day rather than a half-day; (f) data indicating the number of preschool program FTE each district used to provide a full-day kindergarten component; (g) the state and local shares of each district's total program funding that is attributable to the preschool program; and (h) whether or not each district contracted for preschool services with community providers.

I have vetoed similar footnotes in each of the past two years. This footnote may violate the separation of powers in Article III of the Colorado Constitution by attempting to dictate the format of the executive budget request. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation. I will instruct the department to comply to the extent feasible.

10. **Footnote 12, pages 44-45, 82-83:** Department of Education, Assistance to Public Schools, Categorical Programs; and Department of Higher Education, Division of Occupational Education, Colorado Vocational Act Distributions pursuant to Section 23-8-102, C.R.S. -- The Department of Education is requested to work with the Department of Higher Education and to provide to the Joint Budget Committee information concerning each categorical program. For grant programs, such information is requested to include the following: (a) The total number and dollar amount of requests received; (b) the amount awarded or distributed to each district, board of cooperative services, or administrative unit; and (c) a description of the criteria utilized to evaluate requests and to determine grant awards. For other programs, such information is requested to include the following: (a) The total amount distributed to each district, board of cooperative services, or administrative unit; (b) the total amount that each entity would be eligible to receive pursuant to state law and/or State Board of Education rule; and (c) a description of the method or formula used to determine the amount for which entities are eligible and to distribute funds.

I have vetoed similar footnotes in each of the past two years. This footnote may violate the separation of powers in Article III of the Colorado Constitution by attempting to dictate the format of the executive budget request. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation. Further, the footnote is not clear as to what time period the request relates and may require a significant devotion of resources. I will instruct the department to comply to the extent feasible.

11. **Footnote 13, page 45:** Department of Education, Assistance to Public Schools, Categorical Programs, Other Categorical Programs, Federal Special Education Grant for Infants, Toddlers, and Their Families -- The Department is requested to provide to the Joint Budget Committee information concerning the expenditure of federal funds provided pursuant to Part C of the federal "Individuals with Disabilities Education Act" for the most recent state fiscal year. Such information is requested to include sufficient detail to identify expenditures related to the provision of direct services, by type of service.

I have vetoed similar footnotes in each of the past two years. The General Assembly has no authority to appropriate these federal funds. Furthermore, this footnote may violate Article V, Section 32 because it constitutes substantive legislation. In addition, the footnote is not clear as to what time period the request relates and may require a significant devotion of resources. I will instruct the department to comply to the extent feasible.

12. **Footnote 14, page 45:** Department of Education, Assistance to Public Schools, Grant Programs and Other Distributions -- The Department is requested to provide information to the Joint Budget Committee by November 1, 2004, concerning the allocation of funding to eligible boards of cooperative services (BOCES) pursuant to section 22-2-122 (3), C.R.S. Specifically, the Department is requested to detail the allocations made to each BOCES in fiscal years 2002-03 and 2003-04, and to evaluate and report its findings concerning the impact of such allocations on the number and quality of grant applications submitted by member school districts and schools.

This footnote may violate the separation of powers in Article III of the Colorado Constitution by attempting to dictate the format of the executive budget request. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation. I will instruct the department to comply to the extent feasible.

13. **Footnote 15, page 45:** Department of Education, Assistance to Public Schools, Grant Programs and Other Distributions, State Public School Fund, Contingency Reserve -- The Department is requested to notify the Joint Budget Committee whenever the State Board of Education approves a payment from the Contingency Reserve. Such notification is requested to include the amount of the payment, the name of the district receiving funds, the proposed use of such funds, and the applicable circumstance listed in section 22-54-117, C.R.S.

This footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to direct elected officials in their duties. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation. I will direct the department to comply to the extent feasible.

14. **Footnote 16, page 45:** Department of Education, Assistance to Public Schools, Grant Programs and Other Distributions, State Public School Fund, Contingency Reserve -- It is the intent of the General Assembly that the State Board of Education utilize the assistance of the Division of Property Taxation in the Department of Local Affairs in making a determination of school district requests for payment from the contingency reserve fund prior to approving payments from the fund.

This footnote is in violation of the Colorado Constitution, Article III and possibly Article V, Section 32, because it interferes with the ability of the executive branch to administer the appropriation. In addition, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to direct elected officials in their duties.

15. **Footnote 18, page 51:** Governor-Lieutenant Governor-State Planning and Budgeting, Office of the Governor; and Office of State Planning and Budgeting -- As part of the FY 2005-06 budget submission, the Office of State Planning and Budgeting is requested to provide a report on indirect cost recoveries from federal programs that are administered through the Office of the Governor or that are not shown elsewhere in the Long Bill. The report should include an analysis, by federal program, of: Statewide and departmental indirect costs collected in FY 2002-03 and FY 2003-04; where funds collected were spent; the potential for additional indirect cost collections in FY 2004-05 and future years; and the potential for offsetting General Fund expenditures in the Office of the Governor or other departments through these collections. For each federal program that was not assessed statewide and departmental indirect costs, the report should explain why these costs were not assessed.

I vetoed this footnote last year. This footnote is in violation of the Colorado Constitution, Article III and possibly Article V, Section 32, because it interferes with the ability of the executive branch to administer the appropriation and may constitute substantive legislation that cannot be included in the general appropriations bill. The General Assembly has no authority to appropriate federal funds. Furthermore, the Governor's Office is already part of the statewide indirect cost plan developed by the Department of Personnel; thus provision of this information would be redundant.

16. **Footnote 19, page 51:** Governor - Lieutenant Governor - State Planning and Budgeting, Office of the Governor, Governor's Office, Administration of Governor's Office and Residence; and Other Programs and Grants -- The Governor's Office is requested to provide to the Joint Budget Committee, with its FY 2005-06 budget request, information pertaining to federal and cash exempt funds received and expected to be received. This information should include the amount and source of each grant, any matching and maintenance of effort requirements, duration of the grant, as well as the name of the program or project and number of FTE the funds will support.

I vetoed this footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation and by dictating the content of the Executive budget request. Requesting additional information on non-appropriated sources within the Governor's Office restricts the flexibility of the Office. Furthermore, the General Assembly has no authority to appropriate federal money or to prescribe limits on FTE. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill.

17. **Footnote 20, page 51:** Governor - Lieutenant Governor - State Planning and Budgeting, Office of the Governor; and Office of State Planning and Budgeting --The Commission on Information Management, in conjunction with the Office of State Planning and Budgeting, is requested to submit a priority list for all state information technology projects requested in the FY 2005-06 budget requests by November 1, 2004.

This footnote is in violation of the Colorado Constitution, Article III and possibly Article V, Section 32, because it interferes with the ability of the executive branch to administer the appropriation and may constitute substantive legislation that cannot be included in the general appropriations bill. The Office of State Planning and Budgeting does not review budget requests from elected officials, the Legislative Branch, or the Judicial Branch. I will direct the Office of State Planning and Budgeting, in conjunction with the Office of Innovation and Technology, to prioritize the information technology requests of the Executive Branch departments according to programmatic priorities and to provide this report to the JBC by November 2004. However, I will not require the offices to prioritize non-executive requests in this list.

18. **Footnote 22, page 52:** Governor - Lieutenant Governor - State Planning and Budgeting, Office of State Planning and Budgeting; and Office of Innovation and Technology -- The General Assembly requests the Office of State Planning and Budgeting and the Office of Innovation and Technology to work with Joint Budget Committee staff and departmental staff to develop recommendations for standardizing Long Bill information technology appropriations in order to achieve consistency in long bill appropriations for information technology. The Office of State Planning and Budgeting and the Office of Innovation and Technology are requested to report their recommendations for such a system to the General Assembly no later than November 1, 2004.

I vetoed this footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution by directing the appropriation. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill.

19. **Footnote 23, pages 52 and 189 :** Governor – Lieutenant Governor – State Planning and Budgeting, Office of State Planning and Budgeting; and the Department of Personnel and Administration, Division of Human Resources -- The Department shall comply with the statutory provisions of Section 24-50-110 (1)(d), C.R.S., and is requested to provide other state departments with the information necessary to comply with this statute. The Office of State Planning and Budgeting and the Department of Personnel are requested to work with the departments to improve the timeliness and accuracy of information about state personnel. Improvements, at a minimum, should include: updating personnel information on a centralized computerized data base; accurate reporting of filled FTE positions; number of reclassifications that are approved, turnover rates by agency; tracking of FTE positions funded to FTE positions filled; an accurate count of part-time and temporary FTE positions; and elimination of unused FTE positions. The Department and the Office of State Planning and Budgeting are requested to submit a consolidated statewide personnel report to the General Assembly by September 1, 2004. This report should include, by line item and Department, a summary of vacant positions, the length of time each position has been vacant, and the number of reclassifications that were approved in FY 2003-04.

This footnote is in violation of the Colorado Constitution, Article III and possibly Article V, Section 32, because it interferes with the ability of the executive branch to administer the appropriation and may constitute substantive legislation that cannot be included in the general appropriations bill. For the last five years, my administration has worked diligently to provide the Joint Budget Committee (JBC) with information on FTE within existing resources. My administration has provided the JBC with more information on FTE than any prior administration and will continue to work cooperatively with the JBC. However, the full amount of information requested in this footnote is not available and to make this information available would require significant investments in computer technology and human resources. Without these investments, the footnote constitutes an unfunded mandate. I will continue to direct representatives from the Governor's Office and the Department of Personnel and Administration to provide the requested information to the extent feasible given available data and resource constraints.

20. **Footnote 24, page 52:** Governor - Lieutenant Governor - State Planning and Budgeting, Economic Development Programs, International Trade Office -- The International Trade Office is requested to provide its FY 2003-04 annual report to the Joint Budget Committee by November 1, 2004. The report should include the following information: Number of new and existing companies assisted; activity reports from overseas representatives and offices; number of incoming missions; and regional export activities.

I vetoed this footnote last year. This footnote is in violation of the Colorado Constitution, Article III and possibly Article V, Section 32, because it interferes with the ability of the executive branch to administer the appropriation and may constitute substantive legislation that cannot be included in the general appropriations bill. Additionally, this footnote requires a substantial dedication of resources and constitutes an unfunded mandate. Nonetheless, I will direct the department to comply to the extent feasible.

21. **Footnote 25, page 53:** Governor - Lieutenant Governor - State Planning and Budgeting, Economic Development Programs, Colorado Promotion - Other Program Costs -- This program is requested to submit to the Joint Budget Committee a report outlining how it spent the \$9,000,000 supplemental appropriation it received in FY 2002-03, and a cost-benefit analysis of such expenditures. It is requested that this report be provided January first of each fiscal year until the appropriation is accounted for.

This footnote is in violation of the Colorado Constitution, Article III and possibly Article V, Section 32, because it interferes with the ability of the executive branch to administer the appropriation and may constitute substantive legislation that cannot be included in the general appropriations bill. Additionally, this footnote requires a substantial dedication of resources and constitutes an unfunded mandate. Nonetheless, I will direct the department to comply.

22. **Footnote 26, page 53:** Governor - Lieutenant Governor - State Planning and Budgeting, Economic Development Programs, Economic Development Commission - General Economic Incentives and Marketing -- In its annual report to the General Assembly, the Economic Development Commission is requested to provide an analysis and summary of programs and

activities undertaken to assist the economies of rural areas of the state. For each project in a rural area, the report should include the following information: The location; recipient; purpose; dollar amount received from the Commission; local and/ or private matching contributions; and other economic development assistance provided by the state for that project, such as job training. The report should also provide the total dollar amount provided by the Commission to rural areas, the percentage of total Commission assistance that went to rural areas, and information on any rural projects that applied for but did not receive Commission assistance.

I vetoed this footnote last year. This footnote is in violation of the Colorado Constitution, Article III and possibly Article V, Section 32, because it interferes with the ability of the executive branch to administer the appropriation and may constitute substantive legislation that cannot be included in the general appropriations bill. Pursuant to Section 24-46-104 (2), C.R.S., the department is required to prepare a report regarding the work of the Commission. The department has complied with this statutory requirement and will continue to provide the report. Furthermore, I have long emphasized to the Economic Development Commission the importance of rural economic development and will continue to do so. I will direct the department to comply to the extent feasible.

- 23. Footnote 27, pages 53 and 83:** Governor - Lieutenant Governor - State Planning and Budgeting, Economic Development Programs, Colorado First Customized Job Training; and Department of Higher Education, Division of Occupational Education, Colorado First Customized Job Training -- This program is requested to submit to the Joint Budget Committee by November 1, 2004, a detailed plan for accountability, including review criteria for selection of companies to participate, the number of new jobs created by the programs, the number of unemployed and underemployed individuals who were trained and employed by this program, the amount of new personal income, state personal, and corporate income tax generated by this program, the time period for repayment of state investment in this program, and the number of persons taken off state support programs and the money saved thereby.

I vetoed this footnote last year. This footnote is in violation of the Colorado Constitution, Article III and possibly Article V, Section 32, because it interferes with the ability of the executive branch to administer the appropriation and may constitute substantive legislation that cannot be included in the general appropriations bill. Furthermore, this footnote requires a substantial dedication of resources and constitutes an unfunded mandate.

- 24. Footnote 28, page 53:** Governor - Lieutenant Governor - State Planning and Budgeting, Office of Innovation and Technology -- The Office of Innovation and Technology is requested to produce a plan for the implementation of the Statewide Internet Portal, including objectives, a timeline with specific benchmarks, and a detailed spending plan. The Office is requested to deliver this plan to the Joint Budget Committee no later than October 1, 2004.

This footnote is in violation of the Colorado Constitution, Article III and possibly Article V, Section 32, because it interferes with the ability of the executive branch to administer the appropriation and may constitute substantive legislation that cannot be included in the general appropriations bill. Furthermore, the provisions of Senate

Bill 03-336, signed into law last year, include similar reporting requirements. Therefore, we will follow the reporting requirements in Senate Bill 03-336 that require a report to be delivered on July 15, 2004 to the General Assembly concerning the implementation of a statewide Internet portal plan.

- 25. Footnote 30a, pages 66-67, and 110-111:** Department of Health Care Policy and Financing, Executive Director's Office; and Human Services, Mental Health and Alcohol and Drug Abuse Services -- The Departments are requested to prepare a report that provides a needs assessment and associated recommendations on a proposed acute treatment unit facility in Southwestern Colorado. The report is requested to consider this area's unique regional geographic factors that: (1) substantially contribute to added time, trauma, cost, and risk in the transportation of clients needing hospitalization for severe mental illness; (2) add to the discontinuity of care, increase length of treatment, and impede the capacity to reintegrate consumers into the community; and (3) undermine best standards of care for consumers in acute psychiatric crisis and their families. The report is also requested to address the impact of these factors on state institutions, including the mental health institutes, and to estimate potential cost savings, and the associated impact on municipal, county and private entities from the establishment of the proposed acute treatment unit. The report is requested to take into consideration the March 2001, Operational Plan for the Mental Health Institutes in Colorado by the TriWest Group, the June 2001, TriWest Group study "An Assessment of Community Mental Health Resources," and the Department of Human Services' February 15, 2002, Operational Plan for the Mental Health Institutes. The Departments' report is requested to be provided to the Joint Budget Committee and the House and Senate Health, Environment, Welfare, and Institutions Committees by no later than September 1, 2004.

This footnote is in violation of the Colorado Constitution, Article III and possibly Article V, Section 32, because it interferes with the ability of the executive branch to administer the appropriation and may constitute substantive legislation that cannot be included in the general appropriations bill. Furthermore, this footnote requires a substantial dedication of resources and constitutes an unfunded mandate. I will direct the department not to comply.

- 26. Footnote 32, page 67:** Department of Health Care Policy and Financing, Medical Services Premiums – The Department is requested to submit a report on the managed care organizations' care capitation rates for each population and the estimated blended rate for each aid category in effect for fiscal year 2004-05 to the Joint Budget Committee by July 25, 2004. The Department shall include in the report a copy of each managed care organization's certification that the reimbursement rates are sufficient to assure the financial stability of the managed care organization with respect to delivery of services to the medicaid recipients covered in their contract pursuant to Section 26-4-115 (2) (k), C.R.S.

This footnote is in violation of the Colorado Constitution, Article III and possibly Article V, Section 32, because it interferes with the ability of the executive branch to administer the appropriation and may constitute substantive legislation that cannot be included in the general appropriations bill.

27. **Footnote 37, page 68:** Department of Health Care Policy and Financing, Medical Services Premiums – The calculations for this line item assume a reduction of \$991,288 for private duty nursing services. This reduction is based on the assumption that private duty nursing services will be limited to no more than 112 hours per week for any one client. The calculations assume the Medical Services Board will adopt rules to conform to the intent of this appropriation.

This footnote is in violation of the Colorado Constitution, Article III and Article V, Section 32, because it interferes with the ability of the executive branch to administer the appropriation and constitutes substantive legislation that cannot be included in the general appropriations bill.

28. **Footnote 38, page 68:** Department of Health Care Policy and Financing, Medical Services Premiums – The calculations for this line item assume a reduction of \$747,360 for durable medical equipment. The calculations assume the Medical Services Board will adopt rules to conform to the intent of this appropriation.

This footnote is in violation of the Colorado Constitution, Article III and Article V, Section 32, because it interferes with the ability of the executive branch to administer the appropriation and constitutes substantive legislation that cannot be included in the general appropriations bill.

29. **Footnote 39, page 68:** Department of Health Care Policy and Financing, Medical Services Premiums – The calculations for this line item assume an increase of \$3,000,000. It is the intent of the General Assembly that this \$3,000,000 be used to increase the reimbursement rates to the Federally Qualify Health Centers by increasing the inflation factor to an amount that equals \$3,000,000. The calculations assume the Medical Services Board will adopt rules to conform to the intent of this appropriation.

This footnote is in violation of the Colorado Constitution, Article III and Article V, Section 32, because it interferes with the ability of the executive branch to administer the appropriation and constitutes substantive legislation that cannot be included in the general appropriations bill.

30. **Footnote 39a, page 68:** Department of Health Care Policy and Financing, Medical Services Premiums – The Department is requested to provide a progress report to the JBC and the House and Senate Health, Environment, Welfare, and Institutions Committees on the recommendations outlined in the Colorado Medicaid Footnote 50a Report from November of 2000. The progress report should focus on an overview of the recommendations, department and legislative action regarding the implementation of the recommendations, any recommendations that have not been implemented, any adjustments needed to address rate disparities or shortfalls in the community long-term care continuum, and any legislative or department action necessary to implement the footnote 50a recommendations.

This footnote is in violation of the Colorado Constitution, Article III and possibly Article V, Section 32, because it interferes with the ability of the executive branch to administer the appropriation and may constitute substantive legislation that cannot be included in the general appropriations bill. Furthermore, this footnote requires a substantial dedication of resources and constitutes an unfunded mandate. I will direct the department not to comply.

- 31. Footnote 40, page 69:** Department of Health Care Policy and Financing, Indigent Care Program, Safety Net Provider Payments – The Department is requested to submit a report by February 1, 2005, which evaluates the use of the new methodology to distribute disproportionate share and major teaching hospital payments.

I vetoed this footnote last year. This footnote is in violation of the Colorado Constitution, Article III and possibly Article V, Section 32, because it interferes with the ability of the executive branch to administer the appropriation and may constitute substantive legislation that cannot be included in the general appropriations bill. I will direct the department to comply to the extent feasible.

- 32. Footnote 42, page 69:** Department of Health Care Policy and Financing, Other Medical Services, Services to 3,979 Old Age Pension State Medical Program client at an average cost of \$2,701.30 – The Department is requested to submit a report by November 1, 2004, recommending changes to the benefit structure or eligibility criteria for the Old Age Pension State Medical Program. The report should include information on what medical services would be most beneficial to include in a limited health plan that would not exceed \$10,750,000 to serve the number of people eligible for the program. The report should include information on whether it would be feasible for the Old Age Pension State Medical Program to become an insurance premium sharing program rather than a traditional fee-for-service program.

This footnote is in violation of the Colorado Constitution, Article III and possibly Article V, Section 32, because it interferes with the ability of the executive branch to administer the appropriation and may constitute substantive legislation that cannot be included in the general appropriations bill. I will direct the department to comply to the extent feasible.

- 33. Footnote 45, pages 70, and 111:** Department of Health Care Policy and Financing, Department of Human Services Medicaid-Funded Programs, Office of Information Technology Services – Medicaid Funding, Colorado Benefits Management System (CBMS); and Department of Human Services, Office of Information Technology Services, Colorado Benefits Management System (CBMS) --It is the understanding of the General Assembly that the primary goal of the Colorado Benefits Management System (CBMS) project is to streamline several county administrative functions by creating a single, integrated, eligibility and client management system that will minimize manual and paper-intensive processes. The 1997 feasibility study that was prepared for the CBMS project included an analysis of the annual savings that would result from the statewide implementation of CBMS, estimating \$31.0 million in annual savings from all fund sources. The feasibility study did not include an analysis of the impact of medical application sites. A re-analysis in December 2000 projects annual savings of \$13.0 million. Further project changes anticipated as of March 2002 are expected to result in the level of savings being further reduced to \$12.4 million. It is the intent of the General Assembly that, once CBMS is fully implemented statewide, various appropriations will be adjusted to reflect the resulting cost savings. It is further the intent of the General Assembly that such adjustments be based on an objective analysis of the impact of the implementation of CBMS on the Department of Health Care Policy and Financing, the Department of Human Services, and county departments of social services.

I vetoed this footnote last year. This footnote implies an unfunded mandate in that there is no funding to conduct the analysis intended by the footnote. Additionally, this footnote creates expectations about budget reductions that the departments believe are no longer feasible due to the steep budget cuts already taken in the project and the restructuring of Human Services provided under welfare reform.

34. **Footnote 49, page 83:** Department of Higher Education, Colorado Commission on Higher Education, Financial Aid Research for the General Assembly – The Department is requested to submit a report to the Joint Budget Committee by November 1, 2004, comparing the retention rates of students receiving Governor's Opportunity Scholarships with retention rates for low-income students receiving other types of financial aid packages.

This footnote is in violation of the Colorado Constitution, Article III and possibly Article V, Section 32, because it interferes with the ability of the executive branch to administer the appropriation and may constitute substantive legislation that cannot be included in the general appropriations bill. However, I will direct the department to comply with the intent of the footnote to the extent possible.

35. **Footnote 50, page 83:** Department of Higher Education, Colorado Commission on Higher Education, Division of Private Occupational Schools – It is the intent of the General Assembly that the Division reduce its fee revenue by 10 percent in FY 2004-05.

This footnote is in violation of the Colorado Constitution, Article III and possibly Article V, Section 32, because it interferes with the ability of the executive branch to administer the appropriation and may constitute substantive legislation that cannot be included in the general appropriations bill.

36. **Footnote 51a, page 84:** Department of Higher Education, Colorado Commission on Higher Education Financial Aid, Special Purpose, Early Childhood Professional Loan Repayment Program -- Of this appropriation, no more than 10.0 percent shall be expended for program administration.

This footnote is in violation of the Colorado Constitution, Article III and possibly Article V, Section 32, because it interferes with the ability of the executive branch to administer the appropriation and may constitute substantive legislation that cannot be included in the general appropriations bill. However, I will direct the department to comply with the intent of the footnote

37. **Footnote 53, page 84:** Department of Higher Education, Governing Boards and Local District Junior Colleges, Trustees of Adams State College; Trustees of Mesa State College; Trustees of Metropolitan State College of Denver; Trustees of Western State College; Board of Governors of the Colorado State University System; Trustees of Fort Lewis College; Regents of the University of Colorado; Trustees of the Colorado School of Mines; University of Northern Colorado; State Board for Community Colleges and Occupational Education State System Community Colleges – It is the intent of the General Assembly that each governing board may increase tuition rates by an amount calculated to generate up to a maximum of 1.1 percent additional revenue from resident students, not including the effects of enrollment changes; except that, if legislation allowing designation of institutions of higher education as enterprises

is enacted by the Sixty-fourth General Assembly and becomes law, the governing board of an institution or group of institutions that is designated as an enterprise pursuant to such legislation may increase the tuition rates for the institution or group of institutions by an amount calculated to generate up to a maximum of eight percent additional revenue from resident and non-resident students not including the effects of enrollment changes. Of said eight percent additional revenue, spending authority for one and one-tenths percent additional revenue shall be from the appropriation in this section, and spending authority for six and nine-tenths percent additional revenue shall be from the appropriation in section 15 of this act. These rates are used in order to increase spending authority for program enhancements and this is not an attempt by the General Assembly to set tuition policy. Each governing board will give consideration to establishing equity of tuition increases among the campuses and programs under the governing board's jurisdiction.

This footnote is in violation of the Colorado Constitution, Article III and possibly Article V, Section 32, because it interferes with the ability of the executive branch to administer the appropriation and may constitute substantive legislation that cannot be included in the general appropriations bill. In addition, the footnote contains language that allows higher education institutions or a group of institutions that receive enterprise status to increase tuition by up to 8.0 percent. Given that non-enterprise status institutions will be funded at 1.1 percent, an 8.0 percent tuition increase is an unreasonable burden on students at enterprise status institutions. However, attaining enterprise status should allow for some flexibility in tuition setting. As a result, although I am vetoing this footnote, I did not veto the spending authority allowed in Section 16 of this Act. Instead, I am directing the Colorado Commission on Higher Education to consult with the Governing Boards of higher education institutions that obtain enterprise status to prepare a tuition plan that is reasonable and fair for their institutions and students.

38. **Footnote 56, page 112:** Department of Human Services, Office of Operations, Utilities -- Up to \$100,000 of the Department's utility appropriation may be used to develop and implement a program designed to decrease energy consumption. A portion of these funds may be used to hire an energy program manager.

I vetoed this footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. The General Assembly has no authority to appropriate or prescribe limits on FTE. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill. I will instruct the department and the Controller to follow the legislative intent of the footnote.

39. **Footnote 60, pages 112-113:** Department of Human Services, Division of Child Welfare -- The Department is requested to provide to the Joint Budget Committee, by November 1, 2004, information concerning the gross amount of payments to child welfare service providers, including amounts that were paid using revenues other than county, state, or federal tax revenues. The Department is requested to identify amounts, by source, for the last two actual fiscal years.

I vetoed this footnote last year. This footnote may violate the separation of powers in Article III of the Colorado Constitution by attempting to dictate the content and format of the Executive budget request. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill. I will instruct the department to comply with the intent of the footnote.

40. **Footnote 61, page 113:** Department of Human Services, Division of Child Welfare, Child Welfare Services -- The Department is requested to provide to the Joint Budget Committee, by November 1, 2004, information concerning actual expenditures for the last two fiscal years for services that are now funded through this consolidated line item. Such data should include the following: (a) County administrative expenditures; (b) out-of-home placement care expenditures and the average cost per child; (c) subsidized adoption expenditures and the average payment per child; (d) case service expenditures and the average cost per child; and (e) child welfare-related child care expenditures and the average cost per child.

I vetoed this footnote last year. This footnote may violate the separation of powers in Article III of the Colorado Constitution by attempting to dictate the content and format of the Executive budget request. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill. I will instruct the department to comply with the intent of the footnote.

41. **Footnote 63, page 113:** Department of Human Services, Division of Child Welfare, Family and Children's Programs -- It is requested that \$3.0 million of the funds appropriated for this line item be used to assist county departments of social services in implementing and expanding family- and community- based services for adolescents. It is the intent of the General Assembly that such services be based on a program or programs that have been demonstrated to be effective in reducing the need for higher cost residential services.

I vetoed this footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill. I will instruct the department to comply with the intent of the footnote.

42. **Footnote 66, page 114:** Department of Human Services, Office of Self Sufficiency, Colorado Works Program, County Block Grants -- Pursuant to sections 26-2-714 (7) and 26-2-714 (9), C.R.S., under certain conditions, a county may transfer federal Temporary Assistance for Needy Families (TANF) funds within its Colorado Works Program Block Grant to the federal child care development fund or to programs funded by Title XX of the federal Social Security Act. One of the conditions specified is that the amount a county transfers must be specified by the Department of Human Services as being available for transfer within the limitation imposed by federal law. It is the intent of the General Assembly that the Department allow individual counties to transfer a greater percent of federal TANF funds than the state is allowed under federal law as long as: (a) Each county has had an opportunity to transfer an amount up to the federal maximum allowed; and, (b) the total amount transferred statewide does not exceed the federal maximum.

I vetoed this footnote last year. This footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill by specifying conditions when individual counties are to transfer a greater percent of federal TANF funds than the State is allowed under federal law. Furthermore, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. I will instruct the department to comply with the intent of the footnote to the extent feasible.

- 43. Footnote 67, page 114:** Department of Human Services, Office of Self Sufficiency, Colorado Works Program, County Training -- The Department is requested to utilize a portion of the funding provided through this line item, in addition to other available resources, for the purpose of providing technical assistance and training for county staff concerning requirements of the federal Americans with Disabilities Act and the provision of services to special needs populations.

I vetoed this footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill.

- 44. Footnote 68, page 114:** Department of Human Services, Office of Self Sufficiency, Special Purpose Welfare Programs, Low Income Energy Assistance Program -- The cash funds exempt appropriation for this line item represents an estimate of donations the Department anticipates receiving from the Colorado Energy Assistance Foundation. It is the intent of the General Assembly that if actual cash funds exempt expenditures that are eligible to be counted as part of the State's maintenance of effort for the federal Temporary Assistance for Needy Families program exceed the appropriated amount, the Department should report actual eligible expenditures to the federal government for such purpose.

I vetoed this footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill. I will instruct the department to comply to the extent feasible.

- 45. Footnote 70, page 114:** Department of Human Services, Mental Health and Alcohol and Drug Abuse Services, Alcohol and Drug Abuse Division, Community Programs, Treatment Services, Treatment and Detox Contracts -- It is the intent of the General Assembly that the FY 2004-05 General Fund reduction of \$901,872 shall be allocated equally between detox contracts and treatment contracts.

This footnote is in violation of the Colorado Constitution, Article III and possibly Article V, Section 32, because it interferes with the ability of the executive branch to administer the appropriation and may constitute substantive legislation that cannot be included in the general appropriations bill.

- 46. Footnote 71, page 114:** Department of Human Services, Services for People with Disabilities, Developmental Disability Services, Community Services, Adult Program Costs -- The Department is requested to survey all individuals on the comprehensive services waiting list in June, 2004, to determine when each individual will need comprehensive services. The Department is requested to report the results of the CCB surveys in the submission of the FY 2005-06 budget request to the Joint Budget Committee.

I vetoed this footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution by dictating the content and format of the Executive budget request. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill. I will direct the department to comply to the extent feasible.

- 47. Footnote 73, page 115:** Department of Human Services, Services for People with Disabilities, Developmental Disability Services, Regional Centers -- The Department is requested to develop options for downsizing the state's regional centers in an effort to comply with the *Olmstead v. L. C.* Supreme Court decision and to reduce program expenditures associated with these state facilities. The options provided to the Joint Budget Committee should include estimates of a minimum number of persons being served by the regional centers; identification of populations to be served in state facilities if any; and estimated costs and savings associated with these options including the sale of state property and facilities. The Department is requested to work with the community centered boards and other stakeholder groups in the development of these options. The department is requested to submit these options to the Joint Budget Committee on or before October 1, 2004.

This footnote is in violation of the Colorado Constitution, Article III and possibly Article V, Section 32, because it interferes with the ability of the executive branch to administer the appropriation and may constitute substantive legislation that cannot be included in the general appropriations bill. I will direct the department not to comply.

- 48. Footnote 89, page 135:** Department of Labor and Employment, Executive Director's Office, Operating Expenses -- The Department is requested to include estimated costs of computer contract maintenance agreements in its annual budget request. This information is requested in a format that permits comparison, by affected budget line, of ongoing maintenance costs from fiscal year to fiscal year, including actual, estimated, and projected amounts.

I vetoed this footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution by dictating the content and format of the Executive budget request. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation. I will instruct the department to comply to the extent feasible.

- 49. Footnote 90, page 136:** Department of Labor and Employment, Division of Employment and Training, Unemployment Insurance Fraud Program -- The Department is requested to include in its annual budget request information on fraud detection and recovery, including, but not limited to, an estimate of the amount of unemployment insurance fraud that may have occurred in FY 2003-04, how much of this fraud was detected, and how much of this fraud was recovered.

I vetoed this footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution by dictating the content and format of the Executive budget request. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation. I will instruct the department to comply to the extent feasible.

- 50. Footnote 92, page 136:** Department of Labor and Employment, Division of Employment and Training, Employment and Training Programs -- The Department is requested to include in its annual budget request information regarding the allocation of the 15 percent Welfare-to-Work Block Grant discretionary funds. Such information should include, but not be limited to, the names of the organizations that receive discretionary funds, the amount of such awards, a description of the organizations' collaboration with the region's One-Stop Job Center, and an explanation of any discretionary funds awarded to community-based organizations that do not collaborate with a One-Stop Job Center.

I vetoed this footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution by dictating the content and format of the Executive budget request. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation. I will instruct the department to comply to the extent feasible.

- 51. Footnote 93, page 136:** Department of Labor and Employment, Division of Employment and Training, Employment and Training Programs, State Operations -- It is the intent of the General Assembly that, of this appropriation, \$86,939 be awarded as grants to one stop job centers that provide services to displaced homemakers.

I vetoed this footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation. I will instruct the department to comply to the extent feasible, while considering options to maximize the number of individuals served.

- 52. Footnote 97, page 153:** Department of Local Affairs, Division of Housing -- The Division of Housing is requested to provide a report to the Joint Budget Committee by November 1, 2004, on its efforts to eliminate regulatory barriers to the construction of affordable housing. The report should include a review of the types and prevalence of local regulatory barriers to affordable housing, a review of the steps the Division of Housing is taking to reduce these barriers, and a report on the effectiveness of the Division's efforts.

This footnote is in violation of the Colorado Constitution, Article III and possibly Article V, Section 32, because it interferes with the ability of the executive branch to administer the appropriation and may constitute substantive legislation that cannot be included in the general appropriations bill.

- 53. Footnote 98, page 158:** Department of Military and Veterans Affairs, Executive Director and Army National Guard, Colorado National Guard Tuition Fund -- The Department is requested to prepare a report demonstrating the effect of representative levels of tuition assistance on Colorado National Guard recruitment and retention efforts. Projections should be supported by

actual data regarding recruitment and retention in Colorado and other states. No later than October 1, 2004, the Department is requested to submit a report to the Joint Budget Committee comparing tuition assistance in Colorado and other states to changes in strength numbers. Analysis of this actual data should form the basis of strength numbers based on future potential funding levels for this line item.

This footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill. I will direct the department to comply to the extent feasible.

- 54. Footnote 102, page 174:** Department of Natural Resources, Oil and Gas Conservation Commission -- It is the intent of the General Assembly that the new resources provided for scanning and indexing will create additional efficiencies in the Division. The Department is requested to provide an estimate of staff savings achieved in its FY 2005-06 budget submission to the General Assembly.

This footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. The General Assembly has no authority to appropriate or prescribe limits on FTE.

- 55. Footnote 105, page 189:** Department of Personnel and Administration, Executive Office – The Department of Personnel and Administration is requested to provide a full summary of all funding sources identified in the General Appropriations Act for FY 2004-05. Such information should include any cash fund specifically identified by a statutory citation through letternotes and any internal service fund specifically identified without specific statutory citation through letternotes. This information is requested in the form of the Schedule 11.A and should be submitted with the FY 2005-06 budget request on November 1, 2004.

This footnote violates the separation of powers in Article III of the Colorado Constitution by dictating the format of the executive budget request. I will direct the department to comply with the intent of the footnote to the extent possible.

- 56. Footnote 106, page 216:** Department of Public Health and Environment, Administration and Support -- It is the intent of the General Assembly that the Department shall not exceed the total FTE authorization included in the Long Bill, and that any transfer of FTE between divisions within the Department should be limited to federally- funded grants or programs and again should not exceed the total authorized level. Any exception to this policy should be limited to federal funds and should be reported to the Joint Budget Committee, documenting the source and amount of funding, increase in number of FTE, activities to be performed, and anticipated time frame for continued receipt of new funding.

I vetoed this footnote last year. The footnote violates the separation of powers in Article III of the Colorado Constitution. The General Assembly does not have the authority to appropriate FTE or federal funds. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill.

- 57. Footnote 107, page 216:** Department of Public Health and Environment, Administration and Support -- The Department is requested to submit a report by October 1, 2004, to the Joint Budget Committee listing all block grants the Department will receive for FY 2004- 05 and is expecting to receive for FY 2005-06. The report should also include a description of the grant, and line items in the Long Bill each grant is being used to finance. The report should include all line items with a General Fund appropriation for which block grants could be used.

I vetoed this footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Furthermore, the General Assembly does not have appropriating authority over grant funds. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill.

- 58. Footnote 108, page 216:** Department of Public Health and Environment, Hazardous Materials and Waste Management Division, Contaminated Site Cleanups -- The Department is requested to submit a report on its CERCLA program. This report is requested to include detailed expenditures for the program, including out-year estimates by project and associated project financing. The report should also include an analysis of long-term funding needs of the State in responding to, litigating, and cleaning up CERCLA sites, including estimated long-term maintenance costs for these sites. The report should also provide information on the Hazardous Substance Response Fund balance and out-year fiscal estimates. This report is requested to be provided to the Joint Budget Committee by no later than November 1, 2004.

I vetoed this footnote last year. This footnote is in violation of the Colorado Constitution, Article III and possibly Article V, Section 32, because it interferes with the ability of the executive branch to administer the appropriation and may constitute substantive legislation that cannot be included in the general appropriations bill. Furthermore, this footnote requires a substantial dedication of resources and constitutes an unfunded mandate. I will direct the departments to comply to the extent feasible.

- 59. Footnote 110, page 217:** Department of Public Health and Environment, Disease Control and Environmental Epidemiology Division, Special Purpose Disease Control Programs, Tuberculosis Control and Treatment -- The Department is requested to provide, with its annual budget submission, a listing of counties which participate in tuberculosis control. Information should include, but not be limited to, the number of patients served for tuberculosis infection and active tuberculosis in each county, the total costs associated with all aspects of treatment and control by county, and a breakout of each revenue source. This information would account for counties' 20-percent match required in Section 25-4-513, C.R.S. This information should be provided for one actual year, the estimate year, and the request year.

I vetoed this footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution by dictating the content and structure of the Executive budget submission. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill. I will instruct the department to comply with the intent of the footnote.

- 60. Footnote 111, page 217:** Department of Public Health and Environment, Prevention Services Division, Prevention Programs, Chronic Disease and Cancer Prevention Grants -- The General Assembly accepts no obligation to continue funding for these programs when federal funds are no longer available. Any match requirements for these federal grants are to be provided by non-state sources. The General Assembly requests that the Department document the sources of matching funds, which documentation should be submitted to the Joint Budget Committee annually with its budget request, to serve as proof of the required state match for these federal dollars.

I vetoed this footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution by dictating the content and structure of the Executive budget submission. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill. I will instruct the department to comply with the intent of the footnote.

- 61. Footnote 113, page 217:** Department of Public Health and Environment, Prevention Services Division, Prevention Partnerships, Tony Grampsas Youth Services Program, Prevention Services Programs -- The Department is requested to submit a report to the Joint Budget Committee on the Tony Grampsas Youth Services Program by November 1, 2005. This report should include the following information for FY 2004-05: (1) Number of applicant organizations and number of organizations receiving funding; (2) names of all applicants and amount applied for by each; (4) numbers of person served each year; (4) characteristics of programs funded (e. g., program goals, characteristics of persons targeted, types of services provided, geographic location of programs funded) ' (5) amount of grantee funding received from other sources administered aby the State and non-State sources per dollar of Tony Grampsas Youth Services Program funding; and (6) general evaluation of program strengths and weaknesses and any recommendations for statutory changes.

This footnote may violate the separation of powers in Article III of the Colorado Constitution by attempting to dictate the content and structure of the Executive budget submission. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill. I will instruct the department to comply with the intent of the footnote to the extent feasible.

- 62. Footnote 114, page 231:** Department of Public Safety, Executive Director's Office, Special Programs, Colorado Integrated Criminal Justice Information System (CICJIS) -- It is the intent of the General Assembly that with this appropriation the Colorado Bureau of Investigation in the Department of Public Safety, the Judicial Department, the Department of Corrections, the Division of Youth Corrections in the Department of Human Services, and the Colorado District Attorneys' Council should be able to improve the Colorado Integrated Criminal Justice Information System to achieve a match between felony court filings and the initial charges in at least ninety percent of the cases by December 31, 2004 and maintain at least a ninety percent match rate annually.

This footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill. I will instruct the department to comply with the intent of the footnote. I understand the importance of increasing the disposition match rate and will direct the department to make improving the performance of the system a priority.

- 63. Footnote 115, page 231:** Department of Public Safety, Colorado State Patrol -- The Department is requested to submit to the Joint Budget Committee a detailed summary of FTE assigned to the field and to special programs on a semi-annual basis beginning on July 15, 2004. Each semi-annual report should include comparative information about the historical assignment of all uniformed positions, vacant positions, State Patrol Academy graduates, employee turnover (including service and disability retirements), and trooper deployment. In addition, for the annual budget request submission, the budget forms should include specific expenditures from the consolidated operating expenses line, and for any consolidated program lines, sufficient detail to allow personal services calculation for Option 8 purposes, including PERA and Medicare detail.

This footnote violates the separation of powers in Article III of the Colorado Constitution by dictating the format and content of the Executive budget submission. The General Assembly does not have the authority to appropriate FTE. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill. I will direct the department to comply with the intent of the footnote.

- 64. Footnote 118, page 231:** Department of Public Safety, Division of Criminal Justice, Community Corrections, Community Corrections Board Administration -- Pursuant to section 17-27-108, C.R.S., the division may authorize up to 4.0 percent of the appropriation for community corrections programs to offset the administrative cost of community corrections boards. The division of criminal justice is encouraged to provide less funding to boards that do not promptly submit their bills to the division for community placements. The division is also encouraged to provide less funding to boards that do not utilize their allocation of resources and to those that have a low acceptance rate for offenders referred to their programs.

This footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. The Colorado Supreme Court concluded in 1978 that legislative attempts to administer the appropriation by placing specific staffing and resource allocation decisions in a general appropriations bill were unconstitutional. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill.

- 65. Footnote 119, page 232:** Department of Public Safety, Colorado Bureau of Investigation -- It is the intent of the General Assembly that the \$303,125 in operating costs associated with the Robotics/LIMS DNA database and casework laboratories that was allocated by the Governor from the one-time federal funds received by Colorado pursuant to the federal "Jobs and Growth

Tax Relief Reconciliation Act of 2003”, is not assumed or guaranteed to be appropriated as continuation funding beginning in FY 2005-06.

This footnote violates the separation of powers in Article III of the Colorado Constitution by dictating the format and content of the Executive budget submission. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill.

- 66. Footnote 120, page 239:** Department of Regulatory Agencies, Executive Director's Office and Administrative Services -- The Department is requested to submit a report to the Joint Budget Committee by October 1, 2006 on the Office of Expedited Settlement within the Division of Registrations. The report shall include quantitative measures that can be used to assess the program and a recommendation, based on those measures, to continue, modify or discontinue the program.

This footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill. In addition, this footnote essentially requires the department to prepare a sunset review and report. Reports such as this have separate authorizing statutory direction. Nonetheless, this information may be useful, so I will direct the department to comply to the extent feasible.

- 67. Footnote 122, page 254:** Department of Revenue, Information Technology Division -- The Department of Revenue is requested to consistently reflect additional computer programming costs in fiscal notes for proposed legislation. The Department is requested to meet with the Legislative Council fiscal note staff and the Joint Budget Committee staff in an effort to continually revise and update the policy of reflecting programming costs with regard to legislative bills. The Department is requested to submit, with its November 2004 budget request for FY 2005-06, a memorandum explaining its policy with respect to reflecting additional computer programming costs in fiscal notes for legislation during the 2005 legislative session. The Department is requested to submit a negative supplemental request for any estimated savings associated with implementing legislation enacted during the 2004 legislative session.

I vetoed this footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution by dictating the format and content of the Executive budget request. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill. I will direct the department to comply to the extent practicable.

- 68. Footnote 124, page 255:** Department of Revenue, State Lottery Division, Retailer Compensation -- The Joint Budget Committee requests that the State Lottery Division and the State Lottery Commission notify the Joint Budget Committee of any increases in the retailer compensation fee, including any changes in the current bonus or commission compensation schedules, prior to any future contractual agreements made with retailers. Pursuant to concerns raised in the State Auditor's November 2003 Performance Audit of the State Lottery Division regarding retailer compensation, a report is requested by November 1, 2004, which discusses any changes to retailer compensation agreements for FY 2004-05 and demonstrates how the

level of these incentives contribute positively or negatively to total sales. If the Division chooses to abide by the compensation agreements from FY 2003-04, the report should also include the rationale for doing so.

This footnote is in violation of the Colorado Constitution, Article III and possibly Article V, Section 32, because it interferes with the ability of the executive branch to administer the appropriation and may constitute substantive legislation that cannot be included in the general appropriations bill. I will direct the department to comply to the extent feasible.

69. **Footnote 125, page 262:** Department of Transportation, Administration -- The Department is requested to complete state budget forms for Administration personal services that provide information for each office or section within the Administration line item. This information should be sufficiently detailed to allow calculation for Option 8 purposes. PERA and Medicare should also be provided by the individual section or office. Additionally, the Department should include subtotals for salary and FTE for each of the offices within the Administration line item information currently supplied.

I vetoed this footnote last year. This footnote violates the separation of powers in Article III of the Colorado Constitution by dictating the format and content of the Executive budget submission, and implies intent to appropriate FTE. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill. I will instruct the department to comply with the intent of the footnote.

SECTION 3: CAPITAL CONSTRUCTION

1. **Capital Construction. Footnote 2, page 280:** Capital Construction, Department of Higher Education, University of Colorado Health Sciences Center, Capital Construction, Fitzsimons Trust Fund; Lease Purchase of Academic Facilities at Fitzsimons -- It is the intent of the General Assembly that the State Controller restrict these funds pending notification by the University of Colorado that there is a final court decision allowing lease purchase agreements pursuant to H. B. 03-1256, and an amount is due to a lessor for the lease purchase of academic buildings at Fitzsimons in the 2004-05 fiscal year.

This footnote is in violation of the Colorado Constitution, Article III and possibly Article V, Section 32, because it interferes with the ability of the executive branch to administer the appropriation and may constitute substantive legislation that cannot be included in the general appropriations bill. I will instruct the department and the State Controller to comply with the intent of the footnote to the extent feasible.

2. **Capital Construction. Footnote 3, page 280:** Capital Construction, Department of Higher Education, Colorado School of Mines, Capital Construction, Addition to Center for Teaching and Learning Media -- It is the intent of the General Assembly that the Colorado School of Mines raise the remaining approximately \$4.3 million necessary to complete this project from private donations and sources other than the General Fund.

This footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Furthermore, this footnote attempts to appropriate gifts, grants, and donations that are not subject to legislative appropriation. In addition, this footnote may violate Article V, Section 32 because it constitutes substantive legislation.

For these reasons, I have exercised my power to veto certain portions of House Bill 04-1422.

Sincerely,

A handwritten signature in black ink that reads "Bill Owens" followed by two dots. The signature is written in a cursive, flowing style.

Bill Owens
Governor